

SUPPORTING STATEMENT
Application for Suspension of Deportation or Special Rule Cancellation of Removal
(Pursuant to Section 203 of Public Law 105-100)
Form I-881
OMB No. 1615-0072

A. Justification.

1. The Form I-881, Application for Suspension of Deportation or Special Rule Cancellation of Removal (I-881) was developed to address the special circumstances of persons who became eligible to apply for suspension of deportation or cancellation of removal as a result of the passage of Public Law 105-100, the Nicaraguan Adjustment and Central American Relief Act (NACARA). Section 203 of NACARA allows certain individuals from Guatemala, El Salvador, and former Soviet bloc countries to apply for suspension of deportation or cancellation of removal (“special rule cancellation of removal”) under eligibility standards that essentially mirror those in place prior to the passage of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). Section 204 of NACARA also exempts individuals granted relief under the provisions of Section 203 from the annual numerical limitations placed on grants of suspension of deportation and cancellation of removal.

On October 28, 2000, the Victims of Trafficking and Violence Protection Act of 2000 (VTVPA) Pub. L. 106-386, was signed into law. This law, in part, created two new categories of individuals who could apply for suspension of deportation or special rule cancellation of removal under section 203 of NACARA. One group of individuals can only apply for relief with EOIR using form I-881, while the other category of individuals must apply for relief with EOIR using EOIR Form-40 for suspension of deportation cases or, for cancellation of removal and adjustment of status for certain nonpermanent residents cases. A description of the new category of individuals who are now eligible to apply for NACARA relief must be included in the instructions to the I-881 as well as the I-881 itself.

2. The data collected on the Form I-881 is used by USCIS, specifically asylum officers, and the Executive Office for Immigration Review (EOIR). The Form I-881 is used to determine eligibility for suspension of deportation or special rule cancellation of removal under Section 203 of NACARA. The form serves the purposes of standardizing requests for the benefits and ensuring that basic information required to assess eligibility is provided by the applicants.
3. The use of the Form I-881 provides the most efficient means for collecting and processing the required data. USCIS does not employ the use of information technology in collecting and processing this type of information. This form is not on the listing of forms scheduled for e-filing.
4. A review of USCIS forms presently available revealed no duplication of effort in

using the Form I-881 and there is no other form that can be easily adapted for the purposes of determining eligibility for suspension of deportation or special rule cancellation of removal under Section 203 of NACARA for one of these new categories of individuals.

Section 1506(b) of the VTVPA modified section 309(c)(5)(C) of IIRIRA (as amended by NACARA) to allow an individual to apply for relief under NACARA if he or she was issued an order to show cause, or was in deportation proceedings before April 1, 1997, and applied for suspension of deportation under section 244(a)(3) of the Act (as in effect before the enactment of IIRIRA). This provision applies to spouses and children who have been battered or subjected to extreme cruelty by a spouse or parent who is a U.S. citizen or lawful permanent resident. Because EOIR has exclusive jurisdiction over applications for relief filed under this new provision and the vast majority of applicants will be seeking suspension of deportation, it is appropriate for them to apply for relief with EOIR using EOIR Form 40, Application for Suspension of Deportation.

However, Section 1510(b) of the VTVPA allows the spouse or child (or former spouse or child) of certain aliens described in NACARA 203 to apply for relief under NACARA.

The individuals who are now eligible to apply for relief under this category are spouses or children of applicants currently described on the I-881 in Part 1, categories (A), (B), or (C), El Salvadorans, Guatemalans, or nationals of the former Soviet block. Discussions between INS and EOIR concluded that it would be more consistent, efficient, and less confusing to add this category of individuals to the Form I-881. An explanation of which form an applicant is to use is included in the INSTRUCTIONS FOR FORM section of the application.

5. This collection of information does not have an impact on small businesses or other small entities.
6. Without the Form I-881, the individuals added to those eligible to seek NACARA 203 relief by the enactment of Section 1510(b) of the VTVPA, would not easily be able to determine what form to use to seek Section 1510(b) relief. The Form I-881 is the form currently used by almost all persons eligible to seek NACARA 203 relief and yet the current Form I-881 does not include a category that describes the necessary criteria of those made eligible to apply for NACARA 203 relief pursuant to enactment of Section 1510(b) of the VTVPA.
7. There are no special circumstances applicable to the Form I-881 collection of information in regards to the new category of applicants.
8. Public comments obviously cannot be addressed in the initial submission. Any public comments will be reconciled and addressed in the justification package with the USCIS' second submission.
9. USCIS does not provide payments or gifts to respondents in exchange for a

benefit sought.

10. There is no assurance of confidentiality.
11. Certain questions on the Form I-881 relate to topics of a sensitive nature such as the applicant's good moral character. Answers to these questions could indicate that the applicant does not have good moral character. (For example, commissions of or convictions for certain crimes could indicate a lack of good moral character.) Other questions ask for information that may normally be considered private but relate to the applicant's ability to establish extreme hardship if returned to his or her country. (For example a serious medical condition that can only be adequately treated in the United States could demonstrate that the applicant would suffer extreme hardship if returned to his or her country.) A third category of questions relates to the applicant's continuous physical presence in the United States, and answers may involve the disclosure of private or sensitive information. (For example, if an applicant has filed income tax returns for seven years, this could help establish that he or she had been in the United States for those seven years.) These three categories were established by statute and have been interpreted by regulation and case law. These conditions are explored only to the degree that they are raised by the applicant's claim for suspension of deportation or special rule cancellation of removal. The instructions inform the applicant of the requirements necessary to establish eligibility for suspension of deportation or special rule cancellation of removal.

12. Annual Reporting Burden

a.	Number of respondents	55,000
b.	Number of responses per each respondent	1
c.	Total annual responses	55,000
d.	Hours per response	12
e.	Total annual reporting burden	660,000

Total annual reporting burden hours is 660,000. This figure was derived by multiplying the number of respondents (55,000) x frequency of response (1) x hours per response (12).

13. There are no capital or start-up costs associated with this information collection. Any cost burdens to respondents as a result of this collection are identified in item 14. However, there is a \$285 fee charge associated with the filing of this application.

14. Annualized Costs

a.	Printing	\$69,300
b.	Collecting and Processing	\$ 15,605,700
c.	Total Cost to Program	\$ 15,675,000
d.	Fee Charge	\$ 15,675,000

e. Total Cost to Government \$0

Government Cost

The estimated cost of the program to the Government is calculated by using the estimated number of respondents (55,000) multiplied (x) by the suggested \$285 fee charge, (which includes the suggested average hourly rate for clerical, officer, and managerial time with benefits, plus a percent for the estimated overhead cost for printing, stocking, distributing and processing of this form).

Total Public Cost

The estimated annual public cost is \$22,227,500. This estimate is based on the number of respondents 55,000 x \$285 fee charge. Additionally, this figure includes the number of respondents 55,000 x 12 hours per response x \$10 (average hourly rate).

15. There has been no increase or decrease in the burden hours previously reported for this information collection. However, there has been an increase in costs due to an increase in fee.
16. USCIS does not intend to employ the use of statistics or the publication thereof for this collection of information.
17. USCIS does not intend to waive the expiration date requirement for OMB approval of this information collection.

18. The USCIS does not request an exception to the certification of this information collection.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable.

C. CERTIFICATION AND SIGNATURE.

PAPERWORK CERTIFICATION

In submitting this request for OMB approval, I certify that the requirements of the Privacy Act and OMB directives have been complied with including paperwork regulations, statistical standards or directives, and any other information policy directives promulgated under 5 CFR 1320.

Richard A. Sloan,
Director,
Regulatory Management Division,
U.S. Citizenship and Immigration Services.

Date